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responsibility for the total system, and may issue guidance to subsystem managers on implementation of this part. When furnishing information for required reports, the system manager will be responsible for reporting the entire system of records, including any subsystems.

(c) Exercise of the responsibilities and authorities in paragraph (a) of this section by any system or subsystem managers at a NASA Installation shall be subject to any conditions or limitations imposed in accordance with § 1212.703 (a)(4) and (b).

### § 1212.705 Assistant Administrator for Procurement.

The Assistant Administrator for Procurement is responsible for developing appropriate procurement regulations and procedures under which NASA contracts requiring the maintenance of a system of records in order to accomplish a NASA function are made subject to the requirements of this part.

### § 1212.706 Delegation of authority.

Authority necessary to carry out the responsibilities specified in this regulation is delegated to the officials named, subject to any conditions or limitations imposed in accordance with this subpart 1212.7.

## Subpart 1212.8—Failure To Comply With Requirements of This Part

### § 1212.800 Civil remedies.

Failure to comply with the requirements of the Privacy Act and this part could subject NASA to civil suit under the provisions of 5 U.S.C. 552a(g).

### § 1212.801 Criminal penalties.

(a) A NASA officer or employee may be subject to criminal penalties under the provisions of 5 U.S.C. 552a(i) (1) and (2).

(1) *Section 552a(i)(1)*. Any officer or employee of an agency, who by virtue of employment or official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited by this section or by rules or regulations established

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thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.

(2) *Section 552a(i)(2)*. Any officer or employee of any agency who willfully maintains a system of records without meeting the notice requirements of subsection (e)(4) of this section shall be guilty of a misdemeanor and fined not more than \$5,000.

(3) These two provisions apply to NASA civil service employees as well as those employees of a NASA contractor with responsibilities for maintaining a Privacy Act system of records.

(b) *Section 552a(i)(3)*. Any person who knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretenses shall be guilty of a misdemeanor and fined not more than \$5,000.

## PART 1213—RELEASE OF INFORMATION TO NEWS AND INFORMATION MEDIA

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AUTHORITY: 42 U.S.C. 2473(a)(3).

SOURCE: 71 FR 49989, Aug. 24, 2006, unless otherwise noted.

### § 1213.100 Scope.

This part sets forth policy governing the release of public information, which is defined as information in any form provided to news and information media, especially information that has the potential to generate significant media or public interest or inquiry. Examples include, but are not limited to,

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press releases, media advisories, news features, and Web postings. Not included under this definition are scientific and technical reports, Web postings designed for technical or scientific interchange, and technical information presented at professional meetings or in professional journals.

### § 1213.101 Applicability.

(a) This policy applies to NASA Headquarters, NASA Centers, and Component Facilities.

(b) In the event of any conflict between this policy and any other NASA policy, directive, or regulation, this policy shall govern and supersede any previous issuance or directive.

(c) The requirements of this part do not apply to the Office of Inspector General regarding its activities.

### § 1213.102 Policy.

(a) NASA, a scientific and technical Agency, is committed to a culture of openness with the media and public that values the free exchange of ideas, data, and information as part of scientific and technical inquiry. Scientific and technical information from or about Agency programs and projects will be accurate and unfiltered.

(b) Consistent with NASA statutory responsibility, NASA will “provide for the widest practicable and appropriate dissemination of information concerning its activities and the results thereof.” Release of public information concerning NASA activities and the results of NASA activities will be made in a timely, equitable, accurate, and complete manner.

(c) To ensure timely release of information, NASA will endeavor to ensure cooperation and coordination among the Agency’s scientific, engineering, and public affairs communities.

(d) In keeping with the desire for a culture of openness, NASA employees may, consistent with this policy, speak to the press and the public about their work.

(e) This policy does not authorize or require disclosure of information that is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552) or otherwise restricted by statute, regulation, Executive Order, or other Executive Branch policy or NASA pol-

icy (e.g., OMB Circulars, NASA Policy Directives). Examples of information not releasable under this policy include, without limitation, information that is, or is marked as, classified information, procurement sensitive information, information subject to the Privacy Act, other sensitive but unclassified information, and information subject to privilege, such as pre-decisional information or attorney-client communications.

### § 1213.103 Responsibilities.

(a) The Assistant Administrator for Public Affairs is responsible for developing and administering an integrated Agency-wide communications program, establishing Agency public affairs policies and priorities, and coordinating and reviewing the performance of all Agency public affairs activities. The Assistant Administrator will develop criteria to identify which news releases and other types of public information will be issued nationwide by NASA Headquarters. Decisions to release public information nationwide by NASA Headquarters will be made by the Assistant Administrator for Public Affairs or his/her designee.

(b) NASA’s Mission Directorate Associate Administrators and Mission Support Office heads have ultimate responsibility for the technical, scientific, and programmatic accuracy of all information that is related to their respective programs and released by NASA.

(c) Under the direction of the Assistant Administrator for Public Affairs, Public Affairs Officers assigned to Mission Directorates are responsible for the timely and efficient coordination of public information covering their respective programs. This coordination includes review by appropriate Mission Directorate officials. It also includes editing by public affairs staff to ensure that public information products are well written and appropriate for the intended audience. However, such editing shall not change scientific or technical data or the meaning of programmatic content.

(d) Center Public Affairs Directors are responsible for implementing their portion of the Agency’s communications program, adhering to Agency

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policies, procedures, and priorities, and coordinating their activities with Headquarters (and others where appropriate). They are responsible for the quality of public information prepared by Center Public Affairs Officers. They also are responsible for the day-to-day production of public information covering their respective Center activities, which includes obtaining the necessary Center concurrences and coordinating, as necessary, with the appropriate Headquarters Public Affairs Officers.

(e) Center Directors have ultimate responsibility for the accuracy of public information that does not require the concurrence of Headquarters. *See* § 1213.104(d).

(f) All NASA employees are required to coordinate, in a timely manner, with the appropriate Public Affairs Officers prior to releasing information that has the potential to generate significant media or public interest or inquiry.

(g) All NASA Public Affairs Officers are required to notify the appropriate Headquarters Public Affairs Officers, in a timely manner, about activities or events that have the potential to generate significant media or public interest or inquiry.

(h) All NASA public affairs employees are expected to adhere to the following code of conduct:

- (1) Be honest and accurate in all communications.
- (2) Honor publication embargoes.
- (3) Respond promptly to media requests, and respect media deadlines.
- (4) Act promptly to notify the public of, and correct, erroneous information, either internally or externally.
- (5) Promote the free flow of scientific and technical information.
- (6) Protect non-public information.

(i) All NASA employees are responsible for adhering to plans (including schedules) for activities established by public affairs offices and senior management for the coordinated release of public information.

(j) All NASA-funded missions will have a public affairs plan, approved by the Assistant Administrator for Public Affairs, which will be managed by Headquarters and/or a designated NASA Center.

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(k) Public affairs activities for NASA-funded missions will not be managed by non-NASA institutions, unless authorized by the Assistant Administrator for Public Affairs.

### § 1213.104 Public information coordination and concurrence.

(a) *General.* All NASA employees involved in preparing and issuing NASA public information are responsible for proper coordination among Headquarters and Center offices to include review and clearance by appropriate officials prior to issuance. Such coordination will be accomplished through procedures developed and published by the NASA Assistant Administrator for Public Affairs.

(b) *Coordination.* To ensure timely release of public information, Headquarters and Center Public Affairs Officers are required to coordinate to obtain review and clearance by appropriate officials, keep each other informed of changes, delays, or cancellation of releases, and provide advance notification of the actual release.

(c) All public information shall be coordinated through the appropriate Headquarters offices, including review by the appropriate Mission Directorate Associate Administrator and Mission Support Office head, or their designees, to ensure scientific, technical, and programmatic accuracy, and review by the Assistant Administrator for Public Affairs or his/her designee to ensure that public information products are well written and appropriate for the intended audience.

(d) Centers may, however, without the full coordination of Headquarters, issue public information that is institutional in nature, of local interest, or has been deemed not to be a Headquarters release. These releases must be coordinated through the appropriate Center offices and approved by the Center Director and Center Public Affairs Director. The Center Public Affairs Director is required to provide proper notification to the Office of Public Affairs, NASA Headquarters, prior to release. The Assistant Administrator for Public Affairs or his/her designee will determine which public information will be issued nationwide by NASA

Headquarters and shall publish guidelines for the release of public information that may be issued by Centers without clearance from Headquarters offices.

(e) *Dispute Resolution.* Any dispute arising from a decision to proceed or not proceed with the issuance of a news release or other type of public information will be addressed and resolved by the Assistant Administrator for Public Affairs with the appropriate Mission Directorate Associate Administrator, Mission Support Office head, Center Director, and others, such as Center Public Affairs Directors, as necessary. However, the appropriate Mission Directorate Associate Administrator shall be the arbiter of disputes about the accuracy or characterization of programmatic, technical, or scientific information. Additional appeals may be made to the Chief of Strategic Communications and to the Office of the Administrator. When requested by a Center Public Affairs Director, an explanation of the resolution will be provided in writing to all interested Agency parties.

#### § 1213.105 Interviews.

(a) Only spokespersons designated by the Assistant Administrator for Public Affairs, or his/her designee, are authorized to speak for the Agency in an official capacity regarding NASA policy, programmatic, and budget issues.

(b) In response to media interview requests, NASA will offer articulate and knowledgeable spokespersons who can best serve the needs of the media and the American public. However, journalists may have access to the NASA officials they seek to interview, provided those NASA officials agree to be interviewed.

(c) NASA employees may speak to the media and the public about their work. When doing so, employees shall notify their immediate supervisor and coordinate with their public affairs office in advance of interviews whenever possible, or immediately thereafter, and are encouraged, to the maximum extent practicable, to have a Public Affairs Officer present during interviews. If Public Affairs Officers are present, their role will be to attest to the content of the interview, support the

interviewee, and provide post-interview follow up with the media, as necessary.

(d) NASA, as an Agency, does not take a position on any scientific conclusions. That is the role of the broad scientific community and the nature of the scientific process. NASA scientists may draw conclusions and may, consistent with this policy, communicate those conclusions to the media. However, NASA employees who present personal views outside their official area of expertise or responsibility must make clear that they are presenting their individual views—not the views of the Agency—and ask that they be sourced as such.

(e) Appropriated funds may only be used to support Agency missions and objectives consistent with legislative or presidential direction. Government funds shall not be used for media interviews or other communication activities that go beyond the scope of Agency responsibilities and/or an employee's official area of expertise or responsibility.

(f) Media interviews will be “on-the-record” and attributable to the person making the remarks, unless the interviewee is authorized to do otherwise by the Assistant Administrator for Public Affairs or Center Public Affairs Director, or their designees. Any NASA employee providing material to the press will identify himself/herself as the source.

(g) Audio recordings may be made by NASA with consent of the interviewee.

(h) NASA employees are not required to speak to the media.

(i) Public information volunteered by a NASA official will not be considered exclusive to any one media source and will be made available to other sources, if requested.

#### § 1213.106 Preventing release of classified information to the media.

(a) Release of classified information in any form (e.g., documents, through interviews, audio/visual) to the news media is prohibited. The disclosure of classified information to unauthorized individuals may be cause for prosecution and/or disciplinary action against the NASA employee involved. Ignorance of NASA policy and procedures regarding classified information does

not release a NASA employee from responsibility for preventing any unauthorized release. See NPR 1600.1, Chapter 5, Section 5.23 for internal NASA guidance on management of classified information. For further guidance that applies to all agencies, see Executive Order 12958, as amended, “Classified National Security Information,” and its implementing directive at 32 CFR parts 2001 and 2004.

(b) Any attempt by news media representatives to obtain classified information will be reported through the Headquarters Office of Public Affairs or Installation Public Affairs Office to the Installation Security Office and Office of Security and Program Protection.

(c) For classified operations and/or programs managed under the auspices of a DD Form 254, “*Contract Security Classification Specification*,” all inquiries concerning this activity will be responded to by the appropriate PAO official designated in Item 12 on the DD Form 254.

(d) For classified operations and/or information owned by other Government agencies (e.g., DOD, DOE), all inquiries will be referred to the appropriate Agency Public Affairs Officer as established in written agreements.

**§ 1213.107 Preventing unauthorized release of sensitive but unclassified (SBU) information/material to the news media.**

(a) All NASA SBU information requires accountability and approval for release. Release of SBU information to unauthorized personnel is prohibited. Unauthorized release of SBU information may result in prosecution and/or disciplinary action. Ignorance of NASA policy and procedures regarding SBU information does not release a NASA employee from responsibility for unauthorized release. See NPR 1600.1, Chapter 5, Section 5.24 for guidance on identification, marking, accountability and release of NASA SBU information.

(b) Examples of SBU information include: proprietary information of others provided to NASA under nondisclosure or confidentiality agreement; source selection and bid and proposal information; information subject to export control under the International

Traffic in Arms Regulations (ITAR) or the Export Administration Regulations (EAR); information subject to the Privacy Act of 1974; predecisional materials such as national space policy not yet publicly released; pending reorganization plans or sensitive travel itineraries; and information that could constitute an indicator of U.S. Government intentions, capabilities, operations, or activities or otherwise threaten operations security.

(c) Upon request for access to information/material deemed SBU, coordination must be made with the information/material owner to determine if the information/material may be released. Other organizations that play a part in SBU information identification, accountability, and release (e.g., General Counsel, External Relations, Procurement) must be consulted for assistance and/or concurrence prior to release.

(d) Requests for SBU information from other Government agencies must be referred to the NASA program or other office responsible for handling the information as SBU.

**§ 1213.108 Multimedia materials.**

(a) NASA’s multimedia material, from all sources, will be made available to the information media, the public, and to all Agency Centers and contractor installations utilizing contemporary delivery methods and emerging digital technology.

(b) Centers will provide the media, the public, and as necessary, NASA Headquarters with:

(1) Selected prints and original or duplicate files of news-oriented imagery and other digital multimedia material generated within their respective areas.

(2) Selected video material in the highest quality format practical, which, in the opinion of the installations, would be appropriate for use as news feed material or features in pre-produced programs and other presentations.

(3) Audio and/or video files of significant news developments and other events of historic or public interest.

(4) Interactive multimedia features that can be incorporated into the

Agency's Internet portal for use by internal and external audiences, including the media and the general public.

(5) To the extent practicable, these products will be in forms and media accessible to the public at large, as well as to specific user groups requesting them, if any.

**§ 1213.109 News releases concerning international activities.**

(a) Releases of information involving NASA activities, views, programs, or projects involving another country or an international organization require prior coordination and approval by the Headquarters offices of External Relations and Public Affairs.

(b) NASA Centers and Headquarters offices will report all visits proposed by representatives of foreign news media to the Public Affairs Officer of the Office of External Relations for appropriate handling consistent with all NASA policies and procedures.

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